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Previous references.

1878

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Later references.

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Legis.

1 of 1878

File No. ~~5 of 78~~

Serial Nos. 1—11.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for

Incomplete.

SUBJECT.

Introduction of Stamp Bill

Indexed

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From Secy to Govt of India, Legislative Dept

To Ch. Comr of Mysore & Coorg.

Section Legis
File No 1 78
Serial No

S.R.5477

Dated 9 Sept 1878.

Despatched

Received 20 "

Rep. 21st (Bill not yet rec'd).

Enclosures No. 2 spare copies.

General No. 1207 } 1878.
No.

Forwards 6 copies of the Stamp Bill as it stands for second stage (together with copies of the preliminary Report of the Select Committee) with a view to obtaining the Ch. Comm's opinion thereon & that of the Govt of such other officers (not exceeding six in number) experts in the matters to which it relates, as may be selected.

In
Rec Rules.

20-9-78

21-9-78

FROM

D. FITZPATRICK, ESQUIRE,

Secretary to the Government of India,

LEGISLATIVE DEPARTMENT.

The Chief Commissioner of
Mysore & Coorg.

Dated Simla, the 9th September, 1878.

SIR,

I am directed by the Governor General in Council to forward herewith six copies of the Stamp Bill in its second stage (together with copies of the preliminary Report of the Select Committee), with a view to obtaining your opinion thereon and that of the Judicial Commissioner, and of such other officers (not exceeding four in number), experts in the matters to which it relates, as you may select.

2. In doing so, I am to observe that the policy of the various provisions of the Bill having been already very fully discussed, the subordinate officers consulted by you would best assist the Government and the Legislative Council by applying themselves to details and drawing attention to any inaccuracies they may detect in the drafting or to any points in which they may consider modifications are required in the procedure prescribed in order to adapt the measure to the particular circumstances of their Province.

3. I am to add that as the Select Committee propose to submit their final report on the Bill in the first week in December, no communication can be considered which does not reach me at the latest on the 15th November next.

I have the honour to be,

SIR,

Your obedient Servant,

Secretary to the Government of India.

Govt. C. B. Press, Simla—No. 267 L. D.—10-9-78—33.

No. II.

THE STAMP BILL, 1878.

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No. II.

A

BILL

TO

Consolidate and amend the law relating to Stamps.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Stamp Act, 1879:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the first day of January 1879.

Act XVIII of 1869, s. 2.

Repeal of enactments.

2. On and after that day, the Acts specified in the third schedule shall be repealed to the extent specified in the third column of the same schedule. But all rules framed under the General Stamp Act, 1869, and then in force shall, so far as they are consistent with this Act, be deemed to have been made hereunder. And all references made to the General Stamp Act, 1869, in enactments passed subsequently thereto shall be deemed to be made to this Act.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Bill of exchange."

(1.) "Bill of exchange" includes also a hundí and a letter of credit:

Act XVIII of 1869, s. 3.

"Bill of lading."

(2.) "Bill of lading" means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person mentioned or indicated in such instrument; but does not include any such instrument when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1875, and are to be delivered at another place within the limits of the same port:

(3.) "Bond" means—

"Bond."

(*a*) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(*b*) any instrument attested by a witness or witnesses and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(*c*) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another:

(4.) "Cheque" means a bill of exchange drawn on a banker or person carrying on the business of banking, and payable on demand:

"Cheque."

(5.) "Chief Controlling Revenue Authority" means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue: in the Presidency of Bombay, outside the limits of the town of Bombay, a Revenue Commissioner: in the Panjáb, the Financial Commissioner; and elsewhere, the Local Government or such officer as the Local Government may from time to time, by notification in the official Gazette, appoint by name or in virtue of his office in this behalf:

"Chief Controlling Revenue Authority."

(6.) "Collector" means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras or Bombay, respectively, and, without those limits, the Collector of a District, and includes a Deputy Commissioner and any officer whom the Local Government may from time to time by notification in the official Gazette appoint by name or in virtue of his office in this behalf:

"Collector."

(7.) "Conveyance" means any instrument by which property (whether movable or immovable) is transferred on sale:

"Conveyance."

New.

(8.) "Duly stamped" as applied to an instrument means stamped or written upon stamped paper in accordance with the law applicable to such instrument when it was first executed:

"Duly stamped."

(9.) "Instrument of partition" means any instrument whereby persons interested in property, jointly or in common, or as co-parceners, or as members of an undivided family, divide or agree to divide such property in severalty, and includes also a final order for partition passed by any Revenue authority:

"Instrument of partition."

(10.) "Lease" includes also a pattá, and a kabúliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay rent for immovable property:

"Lease."

(11.) "Mortgage-deed" includes every instrument (other than an instrument mentioned in the first schedule, No. 29) whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, one person transfers, or purports to transfer, to another a right over specific property:

"Mortgage-deed."

(12.) "Paper" includes vellum, parchment or any other material on which an instrument may be written:

"Paper."

(13.) "Policy of insurance" means any instrument by which one person, in consideration of a pre-

"Policy of insurance."

mium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event:

"Power-of-attorney"

(14.) "Power-of-attorney" means any instrument (other than a document chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a person to act in the stead of the person executing it:

33 & 34 Vic., c. 97, s. 120.

"Receipt"

(15.) "Receipt" means any note, memorandum, writing or advertisement whatsoever, whereby any goods are acknowledged to have been received in satisfaction of a debt, or whereby any money or any bill of exchange, cheque or promissory note is acknowledged to have been received, or whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgment, whether the same is or is not signed with the name of any person:

"Schedule," "schedules."

(16.) "Schedule" and "schedules" respectively mean a schedule and schedules to this Act annexed:

"Settlement."

(17.) "Settlement" means any disposition in writing of movable or immovable property—

(*a*) which is made in consideration of marriage, or

(*b*) which, not being testamentary, is made for the purpose of dividing the property of the settlor among his family or those for whom he desires to provide.

—It includes an agreement in writing to make such a disposition:

"Vessel."

(18.) "Vessel" means anything made for the conveyance by water of human beings or property:

"Written," "writing."

(19.) "Written" and "writing" include every mode in which words or figures can be expressed upon paper.

Schedules to be read as part of Act.

4. The schedules and everything therein contained are to be read and construed as part of this Act.

CHAPTER II.

STAMP-DUTIES.

A.—Of the liability of Instruments to Stamp-duty.

Act XVIII of 1869, ss. 4 & 7.

Instruments liable to stamp-duty.

5. Subject to the exemptions contained in the second schedule, the following instruments shall be liable to stamp-duty of the amount indicated in the first schedule as the proper duty therefor respectively, that is to say:—

(*a*) every instrument mentioned in the same schedule, and executed in British India on or after the first day of January 1879;

(*b*) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in British India; and

(*c*) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in the same schedule, executed out of British India on or after that day, and relating to any property situate, or to any matter or thing done or to be done, in British India.

Several instruments used in single transactions.

6. When in the case of any conveyance, lease, mortgage or settlement several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the *ad valorem* duty prescribed for such conveyance, lease, mortgage or settlement in the first schedule, and the other instruments shall be chargeable with such other duty as may be prescribed for them in that schedule; but such last-mentioned duty shall not exceed the *ad valorem* duty payable in respect of the principal instrument. Act XVIII of 1869, s. 13.

The parties may determine for themselves which of such instruments shall, for the purposes of this section, be deemed to be the principal instrument.

Instrument coming within several descriptions of schedule.

7. An instrument so framed as to come within two or more of the descriptions in the first schedule shall, when the rates chargeable thereunder are different, be charged with the highest of such rates: Act XVIII of 1869, s. 14.

Proviso as to instruments with several objects.

Provided that any such instrument purporting to effect several distinct objects shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such objects would be liable under this Act.

Power to reduce or remit rates of stamp-duty.

8. The Governor General in Council may from time to time, by order published in the *Gazette of India*, reduce or remit whether prospectively or retrospectively, in the whole or any part of British India, the duties chargeable under this Act on all or any of the instruments mentioned in the first schedule, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the same schedule, when executed or granted by or to any particular class of persons, or by or to any members of such class, Act XVIII of 1869, s. 16.

and may in like manner cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the *Gazette of India*.

B.—Of Stamps and the mode of using them.

Duties how to be paid.

9. Except as otherwise expressly provided in this Act, all stamp-duties which may from time to time be chargeable by law in respect of any instruments shall be paid, and such Act XVIII of 1869, s. 5. 33 & 34 Vic., c. 97, s. 6.

payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provisions herein contained, or

(*b*) when no such provision is applicable thereto, as the Governor General in Council may from time to time by rule direct.

Act XVIII of 1869, s. 5.

Use of adhesive and impressed stamps.

10. The following instruments may be stamped with adhesive stamps, namely:—

(*a*) instruments chargeable with the duty of one anna;

(*b*) bills of exchange and promissory notes drawn or made out of British India; and

(*c*) transfers by endorsement of shares of public companies and associations.

Unless the Governor General in Council otherwise directs, all other instruments shall be stamped with impressed stamps only.

Act XVIII of 1869, ss. 31 & 33.
33 & 34 Vic., c. 97, s. 7.

Cancellation of adhesive stamps.

11. Whoever affixes any adhesive stamp to any instrument liable to duty shall, at the time of affixing the same, cancel such stamp in such manner as to show that it has been used, and so that the same shall be incapable of being used for any other instrument.

Any instrument bearing an adhesive stamp which has not been cancelled in manner herein required shall, so far as such stamp is concerned, be deemed to be unstamped.

33 & 34 Vic., c. 97, s. 7.

How instruments are to be written and stamped.

12. Every instrument written upon stamped paper shall be written in such manner, and every instrument for which an adhesive stamp is used shall be so stamped, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

13. No second instrument chargeable with stamp-duty shall be written upon a piece of stamped paper upon which an instrument chargeable with stamp-duty has already been written: provided that nothing in this section shall prevent an endorsement being made upon any instrument for the purpose of transferring any right created or evidenced thereby.

Act XVIII of 1869, s. 49.

Employment of single impressed stamp.

14. When an impressed stamp is used to defray the amount of duty with which any instrument is chargeable, such amount shall be defrayed by a single stamp, except when such amount exceeds one thousand rupees, in which case it may be defrayed by two or more impressed stamps of which the aggregate amount is the amount so required:

Provided that, when a single impressed stamp of any amount less than one thousand rupees is not procurable on application to the Collector or stamp-vendor appointed under the rules hereinafter mentioned, it shall be lawful, on such Collector or

stamp-vendor making a certificate to that effect, for the person requiring such stamp to defray the duty chargeable by two or more impressed stamps, of which the aggregate amount is not less than the amount of such duty:

Provided also that when any instrument cannot conveniently be written on a single piece of stamped paper bearing a stamp of the amount required for such instrument, it may be commenced on such piece of paper, and when such piece of paper is filled, be continued on one or more pieces of paper each bearing a stamp of eight annas, or when the amount of duty chargeable in respect of such instrument is less than eight annas, of the amount so chargeable.

Act XVIII of 1869, s. 50.

Employment of several stamped papers.

15. When more stamped papers than one are used under section fourteen for an instrument chargeable with stamp-duty, each paper so used shall contain a part of the instrument.

33 & 34 Vic., c. 97, s. 14. Act XVIII of 1869, Sch. II, No. 16.

Denoting.

16. Where the duty with which an instrument is chargeable, or the exemption of such instrument from duty, depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty shall, if application be made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument in such manner as the Governor General in Council may from time to time by rule prescribe.

C.—Of the Time of stamping Instruments.

Instruments executed in British India.

17. Instruments chargeable with stamp-duty and executed in British India shall be stamped before or at the time of execution.

Act XVIII of 1869, s. 24.

Instruments other than bills, cheques and notes executed out of British India.

18. Every instrument chargeable with such duty executed out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within two months after it has been first received in British India; or, where such instrument cannot, with reference to the description of stamp prescribed for such instrument, be duly stamped by a private person, it may be taken within the said period of two months to the Collector, and he shall stamp the same, in such manner as the Governor General in Council may, from time to time, by rule prescribe, with a stamp of such value as the person presenting such instrument may require and pay for.

Act XVIII of 1869, s. 8.

Bills, cheques and notes drawn out of British India.

19. The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same, unless such stamp has been already affixed and cancelled;

33 & 34 Vic., c. 97, s. 51.

Provided that if, at the time any such bill, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section eleven, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled. But nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Stamp-duty.

Act XVIII of 1869, s. 10.

Conversion of amount expressed in certain currencies.

20. When an instrument is chargeable with *ad valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs or dollars, such duty shall be calculated on the value of such money in the currency of British India according to the following scale :—

One pound sterling or pound currency is equivalent to ten rupees :

One hundred francs are equivalent to forty rupees :

One Mexican or China dollar is equivalent to two rupees four annas :

33 & 34 Vic., c. 97, s. 14.

Conversion of amount expressed in other foreign currencies.

21. When an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

New. 33 & 34 Vic., c. 97, s. 12.

Stock and marketable securities to be valued.

22. When an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

New. 33 & 34 Vic., c. 97, s. 13.

Effect of statement of value.

23. When an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it is, so far as regards the subject-matter of such statement, to be deemed duly stamped, unless or until it is shown that such statement is untrue, and that the instrument is in fact insufficiently stamped.

Act XVIII of 1869, s. 9.

Instruments reserving interest.

24. When interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

25. When any property is conveyed to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with *ad valorem* duty.

How conveyance in consideration of a debt, or subject to future payment, &c., to be charged.

Act XVIII of 1869, s. 34. 33 & 34 Vic., c. 97, s. 73.

26. When an instrument is executed to secure the payment of an annuity, or other sum payable periodically, or when the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance (as the case may be) shall for the purposes of this Act be deemed to be—

Valuation in case of annuity, &c.

Act XVIII of 1869, s. 12. 33 & 34 Vic., c. 97, s. 72.

(*a*) when such sum is payable for a definite period so that the total amount to be paid can be previously ascertained, such total amount;

(*b*) when such sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of the execution of such instrument or conveyance, the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years next after the date of such instrument or conveyance; and

(*c*) when such sum is payable for an indefinite time terminable with any life in being at the date of the execution of such instrument or conveyance, the total amount which will or may be payable as aforesaid during the period of twelve years next after the date of such instrument or conveyance.

27. When the amount or value of the subject-matter of any instrument chargeable under this Act with *ad valorem* duty cannot be ascertained, nothing shall be recoverable under such instrument more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used would have been sufficient.

Stamp where value of subject-matter is indeterminate.

Act XVIII of 1869, s. 11. I Mad. 226.

28. All facts and circumstances affecting the liability of any instrument to *ad valorem* duty, or the amount of *ad valorem* duty with which any instrument is chargeable, shall be fully and truly set forth in such instrument.

Facts affecting *ad valorem* duty to be set forth in instrument.

Act XVIII of 1869, s. 34. 33 & 34 Vic., c. 97, s. 10.

29. (*a.*) When any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel is set forth

Direction as to duty in the case of certain conveyances.

New. 33 & 34 Vic., c. 97 s. 74.

in the conveyance relating thereto, and such conveyance shall be charged with *ad valorem* duty in respect of such distinct consideration.

(*b*.) When property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(*c*.) When a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance is to be charged with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(*d*.) When a person having contracted for the purchase of any property, but not having obtained a conveyance, contracts to sell the whole, or any part or parts thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts or parcels, the conveyance of each part or parcel sold to a sub-purchaser shall be charged with *ad valorem* duty in respect only of the consideration moving from such sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be charged with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations moving from the sub-purchasers :

Provided that the stamp-duty on such last mentioned conveyance shall in no case be less than one rupee.

(*e*.) When a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be charged with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller ; or when such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Act XVIII of 1869, s. 6.

Duties by whom payable.

30. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(*a*) in the case of any instrument described in numbers 1, 10, 12, 13, 22, 27, 29, 30, 43, 53, 54, 56 and 59, clauses (*a*) and (*b*), of the first schedule—by the person drawing, making or executing such instrument :

(*b*) in the case of a policy of insurance—by the insured :

(*c*) in the case of a conveyance or lease—by the grantee or lessee :

(*d*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the property comprised therein:

(*e*) in the case of an instrument of exchange—by the parties in equal shares : and

(*f*) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates.

CHAPTER III.

Adjudication of Doubts as to Stamps.

Adjudication of doubt as to proper stamp.

31. When any instrument, whether executed or not, and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) chargeable in respect of the same and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) to which, in his judgment, the instrument is liable ;

Act XVIII of 1869, s. 39, omitting "and of the penalty, if any, incurred through the instrument having been executed on insufficiently stamped paper."

and may for that purpose require to be furnished with an abstract of the instrument, and also with such evidence as he may deem necessary, in order to show to his satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of the duty chargeable thereon, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

33 & 34 Vic., c. 97, s. 20.

Collector may call for abstract and evidence.

Proviso.

Provided that no evidence furnished in pursuance of this section shall be used against any person in any proceeding whatever, except in an inquiry as to the duty with which the instrument to which it relates is chargeable ; and every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty he may have incurred by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

32. When an instrument brought to the Collector under section thirty-one is chargeable with duty and—

(*a*) the Collector determines that it is already fully stamped, or

(*b*) the duty determined by the Collector under section thirty-one, or such a sum as, with the duty already paid on the instrument is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

When such instrument is not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped, or not chargeable with duty, as the case may be; and if chargeable with duty, shall be receivable in evidence or otherwise and may be acted upon and registered as if it had been originally duly stamped:

Provided that the Collector shall not make any such endorsement—

(*a*) on any instrument executed in British India and brought to him after the expiration of one month from the date of its execution;

(*b*) on any instrument executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or

(*c*) on any instrument chargeable with the stamp-duty of one anna, or any bill of exchange or promissory note when brought to him after the drawing or execution thereof on paper not duly stamped.

Payments under this chapter how made.

33. The whole or any part of any payment under this chapter shall be made in stamps, or in cash, or partly in stamps and partly in cash, as the Governor General in Council may from time to time by rule direct.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Act XVIII of 1869, ss. 22 & 23.

Examination and impounding of instruments.

34. Every person having by law or consent of parties authority to receive evidence, and

every person in charge of a public office except an officer of Police,

before whom any instrument chargeable with stamp-duty is produced, or comes in the execution of his duty, shall examine such instrument in order to ascertain whether it is duly stamped; and if it appears to any such person that such instrument is not duly stamped, he shall impound the same:

Provided that nothing herein contained shall be deemed to require any Magistrate or other Judge of a Criminal Court to examine or impound any instrument coming before him in the course of any proceeding other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure.

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The Local Government may, from time to time, determine who shall be deemed to be for

the purpose of this section persons in charge of public offices.

Act XVIII of 1869, ss. 18, 20 & 28.

Instruments not duly stamped inadmissible in evidence, &c.

35. No instrument chargeable with stamp-duty shall be received in evidence in any suit or proceeding, or shall be acted upon or registered unless such instrument is duly stamped:

Proviso.

Provided that—

Instruments admissible on payment of duty and penalty,

1*st*, any such instrument, not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, may be received in evidence on payment of the duty with which the same was chargeable under the law in force when it was first executed or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper stamp-duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such amount.

and in certain criminal proceedings.

2*nd*, nothing herein contained shall prevent the reception of any instrument in evidence in any proceeding in a Criminal Court other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure.

New.

Admission of instrument not to be questioned.

3*rd*, when an instrument has been admitted in evidence, such admission shall not, except as provided in section fifty-one, be called in question on the ground that the proper stamp-duty has not been paid in respect of such instrument.

Instruments impounded how dealt with.

36. When the person impounding an instrument under section thirty-four has by law or consent of parties authority to receive evidence and receives such instrument in evidence upon payment of a penalty as provided by section thirty-five, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of the duty and penalty levied in respect thereof.

In every other case the person so impounding an instrument shall send it in original to the Collector.

Collector's power to refund penalty paid under section 35.

37. When a copy of an instrument is sent to a Collector under the first paragraph of section thirty-six, he may, if he thinks fit, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument, or

when such instrument has been impounded only because it has been written or stamped in contravention of section twelve, thirteen, fourteen or fifteen, he may refund the whole penalty so paid.

Act XVIII of 1869, ss. 24 & 28.

Collector's power to stamp instruments impounded.

38. When the Collector impounds any instrument under section thirty-four, or receives any instrument sent to him under the

second clause of section thirty-six, he shall adopt the following procedure:—

(*a*.) If he is of opinion that such instrument is duly stamped, or is not an instrument chargeable with stamp-duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and shall upon application made to him in this behalf deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.

(*b*.) If the Collector is of opinion that such instrument is chargeable with stamp-duty under the law in force at the time it was first executed and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty not less than five rupees and not more than ten times the amount of such duty or portion as he thinks fit:

Provided that, when such instrument has been impounded only because it has been written or stamped in contravention of section twelve, thirteen fourteen or fifteen, the Collector may, if he thinks fit, remit the penalty prescribed by this section.

Every certificate under clause (*a*) of this section shall be conclusive evidence of the facts stated therein.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

Act XVIII of 1869, ss. 24 & 28.

Instruments insufficiently stamped by accident.

39. If any instrument liable to stamp-duty under the law in force at the time it was first executed and which is unstamped or insufficiently stamped is produced by any person of his own motion before the Collector within one year from the date of its execution, and such person brings to the notice of the Collector the fact that such instrument is unstamped or insufficiently stamped, as the case may be, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that such instrument has not been duly stamped by reason of accident, mistake or urgent necessity, he may, instead of proceeding under sections thirty-four and thirty-eight, receive such amount and proceed as next hereinafter prescribed.

Nothing in this section applies to an instrument chargeable with a duty of one anna only or to a bill of exchange or promissory note.

Endorsement of instruments on which duty has been paid under section 35, 38 or 39.

40. When the stamp-duty and penalty (if any) leviable in respect of any instrument have been paid under section thirty-five, section thirty-eight or section thirty-nine, the person admitting such instrument in evidence or the Collector (as the case may be) shall certify by endorsement thereon that the proper stamp-duty and penalty (stating the amount of

each) have been levied in respect thereof, and the name and residence of the person paying them

Every instrument so endorsed shall thereupon be admissible in evidence or otherwise, and may be registered and acted upon as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that no instrument which has been received in evidence under section thirty-five shall be so delivered until the Collector certifies in writing that its detention is no longer necessary.

Levy of penalty no bar to prosecution.

41. The Collector may, notwithstanding the levy of a penalty under this chapter in respect of an instrument, prosecute any person who appears to have committed an offence against the stamp law in respect of such instrument :

Proviso.

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper stamp-duty.

Persons paying duty or penalty may recover same in certain cases.

42. When any duty or penalty has been paid under section thirty-five, section thirty-eight or section thirty-nine by any person in respect of an instrument, and by agreement or under the rules prescribed by section thirty of this Act or under any other law in force at the time such instrument was executed some other person was bound to bear the expense of providing the proper stamp for such instrument, the first mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid ; and for the purpose of such recovery any certificate granted in respect of such instrument under section forty shall be conclusive evidence of the facts therein certified.

Remission of penalty levied under section 35 or 38.

43. When any penalty is levied under section thirty-five or thirty-eight, the Chief Controlling Revenue Authority may, upon application in writing made within one year from the date on which such penalty is so levied, refund such penalty wholly or in part.

Act XVIII of 1869, s. 25.

Non-liability for loss of instruments sent under section 36.

44. If any instrument sent to a Collector under the second paragraph of section thirty-six be lost, destroyed or injured during transmission, the person sending the same shall not be liable for such loss, destruction or injury.

Deposit of copy of instrument so sent.

When any instrument is about to be so sent, any person may require a copy thereof to be made at his expense and authenticated by the person impounding such instrument, and to be

deposited in the Court or office of such last mentioned person until he otherwise directs.

Act XVIII of 1869, s. 26.

Power of payee to stamp bills, notes and cheques received by him unstamped.

45. When any bill of exchange or promissory note chargeable hereunder with the duty of one anna or any cheque is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and upon so doing, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct such duty from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid.

But nothing herein contained shall relieve any person from any penalty he may have incurred in relation to such bill, note or cheque.

CHAPTER V.

REFERENCE AND REVISION.

Procedure where Collector entertains doubt as to duty chargeable.

46. If any Collector acting under section thirty-eight entertains doubt as to the amount of stamp-duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue Authority, and such Authority shall consider the case and send a copy of its decision to the Collector, and he shall proceed to assess and charge the duty in conformity with such decision.

Act XVIII of 1869, s. 41.

Reference to High Court.

47. The Chief Controlling Revenue Authority may state any case coming before it under this Act, and refer such case with its own opinion thereon, if the case arise in the Presidency of Fort Saint George or the Presidency of Bombay, to the local High Court: if it arise in the North-Western Provinces or Oudh, to the High Court of Judicature for the North-Western Provinces: if it arise in the Panjáb, to the Chief Court of the Panjáb: if it arise in the Central Provinces, to the High Court of Judicature at Bombay: and if it arise in any other part of British India, to the High Court of Judicature at Fort William.

Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

Power of Court to call for further particulars.

48. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, it may refer the case back to the Revenue Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Procedure in disposing of reference.

49. The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby and shall deliver its

judgment thereon containing the grounds on which such decision is founded: and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

Reference by other Courts to High Court.

50. If any Court other than a Court mentioned in section forty-seven entertains doubt as to the amount of stamp-duty to be paid in respect of any instrument under the first proviso to section thirty-five, the Judge may draw up a statement of the case and refer it with his own opinion thereon for the decision of the High Court to which, if he were the Chief Controlling Revenue Authority, he would under section forty-seven refer the same, and such Court shall deal with the case as if it had been referred under section forty-seven and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Judge making the reference, who shall dispose of the case conformably to such decision.

Every reference under this section made by a Court subordinate to a district Court shall be made through the district Court.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

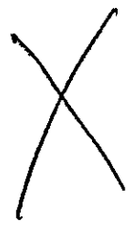
51. When any Court in the exercise of civil jurisdiction makes any order admitting any instrument in evidence as properly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section thirty-five, the Court to which an appeal would lie from the decision of such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration; and if it is of opinion that such instrument should not have been received in evidence without the payment of duty and penalty under section thirty-five, or without the payment of a higher duty and penalty than those paid, may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

When any declaration has been recorded under this section, the Court recording the same shall send a copy thereof to the Collector and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send such instrument, and thereupon the Collector may, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section forty or in section forty-one, prosecute any person for any offence against the stamp law which the Collector considers him to have committed in respect of such instrument:

Provided that no such prosecution shall be instituted where the amount (including duty and penalty) which according to the determination of such Court was payable in respect of the instrument under section 35 is paid, unless it appears to the Collector that the offence was com-

mitted with an intention of evading payment of the proper stamp-duty.

Provided also that no declaration made under this section shall, except for the purposes of a prosecution for an offence as aforesaid, affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section forty.



CHAPTER VI.

REFUNDS.

Act XVIII of 1869, ss. 45 & 46.
33 & 34 Vic., c. 98, s. 14.

Allowance for spoiled stamps.

52. Subject to such rules as may from time to time be made by the Governor General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for the following impressed stamps namely:—

(*a.*) The stamp on any paper inadvertently and undesignedly spoiled, obliterated or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any party, and for which stamp no money or other consideration has been paid or given to the attorney, pleader or other person employed to transact the business intended to have been carried into execution thereby, or to the person by whom the same was written:

(*b.*) The stamp used or intended to be used for any bill of exchange, cheque or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of his hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negotiated, issued or put in circulation, or made use of in any other manner whatever, and which, being a bill of exchange or cheque, has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon:

(*c.*) The stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such error or omission as aforesaid, with the spoiled bill or note:

(*d.*) The stamp used for any of the following instruments, that is to say:—

(1) an instrument executed by any party thereto, but afterwards found to be absolutely void in law from the beginning:

(2) an instrument executed by any party thereto, but afterwards found unfit by reason of any error or mistake therein for the purpose originally intended:

(3) an instrument executed by any party thereto, but which, by reason of the death of any person by whom it is necessary that it should be executed without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed:

(4) an instrument executed by any party thereto which, for want of the execution thereof by some material and necessary party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended:

(5) an instrument executed by any party thereto which, by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose:

(6) an instrument executed by any party thereto which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped:

(7) an instrument executed by any party thereto which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that in the case of an executed instrument—

(*a*) such instrument is given up to be cancelled:

(*b*) the application for relief is made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent abroad, and in that case within six months after it has been received back in any part of British India: and

(*c*) no suit has been instituted in which the instrument could or would have been given or offered in evidence:

Provided also that, in the case of stamped paper not having any executed instrument written thereon, the application for relief is made within six months after the stamp has been purchased from the stamp-vendor.

33 & 34 Vic., c. 98, s. 15.

Allowance for misused stamps.

53. When any person has inadvertently used for an instrument liable to duty a stamp of a description other than that prescribed for such instrument by the rules made under the powers hereinbefore conferred or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not liable to any duty, the Collector may, on application made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if liable to any duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused.

33 & 34 Vic., c. 98, s. 16.

Allowance how to be made.

54. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof other stamps of the same denomination and value or, if required, and he thinks proper, stamps of any other denomination to the same amount in value or, at his discretion, the same value in money, deducting one anna for each rupee.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Act XVIII of 1869, s. 48.

Powers to make subsidiary rules.

55. The Governor General in Council may from time to time make rules consistent herewith for regulating—

(*a*) the description of stamps and (in the case of impressed stamps) the size of the stamped paper to be used for each kind of instrument chargeable under this Act;

(*b*) the supply and sale of such stamps and stamped papers, the persons by whom such sale is to be conducted, and the duties and remuneration of such persons, and

(*c*) generally to carry out the purposes of this Act.

Publication of rules.

56. All rules made under this Act shall be published in the *Gazette of India*, and shall thereupon have the force of law.

Act XVIII of 1869, s. 27.

Procedure where receipts are required.

57. Any person receiving any money exceeding twenty rupees in amount or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction of a debt any movable property exceeding twenty rupees in value shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Act XVIII of 1869, s. 51.

Act to be translated, indexed and sold cheaply.

58. Every Local Government shall cause this Act and the schedules hereto annexed to be carefully translated into the principal vernacular languages of the territories subject to its control. A full alphabetical index shall be added

to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

CHAPTER VIII.

CRIMINAL OFFENCES AND PROCEDURE.

Penalty for executing instrument on paper not duly stamped.

59. Any person drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped, Act XVIII of 1869, s. 29.

any person executing or signing otherwise than as a witness any other instrument chargeable with stamp-duty without the same being duly stamped, and

any person voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punished with fine which may extend to five hundred rupees:

Provided that when any penalty has been paid in respect of any instrument under section thirty-five or section thirty-eight, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

Penalty for failure to cancel adhesive stamp.

60. Any person affixing an adhesive stamp to any instrument and failing to cancel such stamp in manner directed by section eleven, shall be punished with fine which may extend to one hundred rupees. Act XVIII of 1869, s. 33.

Penalty for omission to comply with the provisions of section 28.

61. Any person who, with intent to defraud the Government of any stamp-duty, executes any instrument in which all the facts and circumstances required by section twenty-eight to be set forth in such instrument are not fully and truly set forth, and any person who, being employed or concerned in or about the preparation of any instrument, neglects, or omits with intent as aforesaid, fully and truly to set forth therein all such facts or circumstances, shall be punished with fine which may extend to five thousand rupees. Act XVIII of 1869, ss. 34 & 35.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

62. Any person who being required under section fifty-seven to give a receipt refuses or neglects to give the same, or who upon a payment to the amount of twenty rupees or upwards gives a receipt for a sum not amounting to twenty rupees, or separates or divides the amount paid with intent to defraud the Government of any stamp-duty, shall be punished with fine which may extend to one hundred rupees. Act XVIII of 1869, s. 27. 33 & 34 Vic., c. 97, s. 123.

63. Every person who—

33 & 34 Vic., c. 97, s. 118.

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance,

Penalty for not making out policy.

and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(*b*) makes, executes or delivers out, or pays or allows in account, or agrees to pay or allow in account, any money upon or in respect of any policy which is not duly stamped,

Penalty for making, &c., any policy not duly stamped.

shall be punished with fine which may extend to two hundred rupees.

Act XVIII of 1869, s. 32.

64. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punished with fine which may extend to one thousand rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

65. Whoever utters any instrument having thereon any adhesive stamp which has to his knowledge been used for any other executed instrument, or

Penalty for uttering instrument with stamp removed from another;

practises or is concerned in any fraudulent act, contrivance or device not herein specially provided for, with intent to defraud the Government of any stamp-duty,

for devices to defraud the revenue.

shall be punished with fine which may extend to five hundred rupees.

66. Any person appointed to sell stamps who knowingly disobeys any rule made under section fifty-five, and any person not so appointed who sells or offers for sale any stamp other than a stamp purchased by him in good faith for his own private use, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

Act XVIII of 1869, s. 43.

67. No prosecution in respect of any offence punishable under this Act, or the General Stamp Act, 1869, or any Act thereby repealed, shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

Institution and conduct of prosecutions.

The Chief Controlling Revenue Authority, or any officer authorized by it in this behalf, may stay or compound proceedings in any such prosecution.

Magistrates having jurisdiction.

68. Every such offence shall be triable—

(*a*) within the limits of the Presidency towns, by a Presidency Magistrate; and

(*b*) outside those limits, by Magistrates exercising powers not less than those of a Magistrate of the second class.

Act XVIII of 1869, s. 44.

Place of trial.

69. Every such offence committed in respect of any instrument may be tried in any district or Presidency-town in which such instrument is found, as well as in any district or Presidency-town in which such offence might be tried under the law relating to Criminal Procedure for the time being in force.

Operation of other laws not barred.

70. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

SCHEDULE I.

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
1. ADMINISTRATION BOND		The same duty as a Security Bond (No. 13).
2. AFFIDAVIT		One rupee.
See Exemptions, Schedule II (No. 2).		
3. AGREEMENT TO LEASE		The same duty as a Lease (No. 39).
4. AGREEMENT OR MEMORANDUM OF AN AGREEMENT, whether the same be only evidence of a contract or obligatory on the parties from its being a written instrument ...	(*a.*) If relating to the sale of any Government security, share in a Company or Association or Bill of Exchange ..	One anna.
	(*b.*) Whereby the owner or occupier of land in a village in the Bombay Presidency agrees to relinquish his rights therein to the Government, and to accept rights in other land in exchange for the rights so relinquished	Four annas.
See Exemptions, Schedule II (No. 3).	(*c.*) If not otherwise provided for by this Act	Eight annas.
5. APPOINTMENT, in execution of a power, where made by any writing not being a Will		Fifteen rupees.
6. APPRAISEMENT OR VALUATION		The same duty as an award (No. 9).
See Exemptions, Schedule II (No. 4).		
APPRENTICESHIP	(See Instrument No. 31).	
7. ARTICLES OF ASSOCIATION OF A COMPANY		Twenty-five rupees.
8. ARTICLES OF CLERKSHIP or contract whereby any person becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court		Two hundred and fifty rupees.

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
ASSIGNMENT ...	(See Transfer No. 59 (*b*), also Conveyance No. 19).	
AUTHORITY TO ADOPT ...	(See Instrument No. 38).	
9. AWARD, that is to say, any decision in writing by an arbitrator or umpire on a reference made otherwise than in the course of a suit ...	(*a*.) Where the amount or value of the property to which the award relates does not exceed Rs. 1,000 ...	The same duty as a Bond (No. 12) for such amount.
	(*b*.) In any other case ...	Five rupees.
10. BILL OF EXCHANGE OR PROMISSORY NOTE not being a bond, bank note or currency note ...	(*a*.) When payable on demand and the amount exceeds Rs. 20 ...	One anna.

	If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
(*b*.) When payable otherwise than on demand, but not more than one year after date or sight.	Rs. A. P.	Rs. A. P.	Rs. A. P.
If the amount of the bill or note does not exceed Rs. 200	0 2 0	0 1 0	0 1 0
Exceeds 200 and does not exceed 400	0 4 0	0 2 0	0 2 0
„ 400 „ 600	0 6 0	0 3 0	0 2 0
„ 600 „ 1,000	0 10 0	0 5 0	0 4 0
„ 1,000 „ 1,200	0 12 0	0 6 0	0 4 0
„ 1,200 „ 1,600	1 0 0	0 8 0	0 6 0
„ 1,500 „ 2,500	1 8 0	0 12 0	0 8 0
For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000 ...	1 8 0	0 12 0	0 8 0
For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000 ...	3 0 0	1 8 0	1 0 0
And for every Rs. 10,000 or part thereof in excess of Rs. 30,000 ...	6 0 0	3 0 0	2 0 0
(*c*.) When payable at more than one year after date or sight	The same duty as a Bond (No. 12) for the amount of such bill or note.		

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.			PROPER STAMP-DUTY.
11. BILL OF LADING			Four annas. If a Bill of Lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
		Rs.	
12. BOND for any specified amount (not otherwise provided for by this Act) ... *See Exemption, Schedule II (No. 6).*	When the amount secured does not exceed	10	Two annas.
	When such amount exceeds Rs. 10, but does not exceed	50	Four annas.
	When such amount exceeds Rs. 50, but does not exceed	100	Eight annas.
	and for every Rs. 100 or part thereof in excess of Rs. 100 up to	1,000	Eight annas.
	and for every Rs. 500 or part thereof in excess of	1,000	Two rupees eight annas.
13. BOND OR MORTGAGE-DEED, executed by way of security for the due execution of an office, or to account for money received by virtue thereof ... *See Exemption, Schedule II, No. 6 (a) and (b) and No. 8 (b).*	(*a.*) When the amount secured does not exceed ...	1,000	The same duty as a Bond (No. 12).
	(*b.*) In any other case ...		Five rupees.
BOTTOMRY-BOND...	(See Mortgage-deed No. 43)		
14. CERTIFICATE OF SALE, granted to the purchaser of any property sold by public auction, by a Civil Court, or Collector or other Revenue-officer			The same duty as a Conveyance (No. 19) for a consideration equal to the amount of the purchase-money.

SCHEDULE I—*continued.*

Description of Instrument.			Proper Stamp-duty.
15. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or to become proprietor of shares, scrip or stock in or of any Company or Association			One anna.
16. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some principal part thereof is let for the specified purposes of the charterer			One rupee.
17. CHEQUE, for an amount exceeding twenty rupees			One anna.
18. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors			Ten rupees.
19. CONVEYANCE, not being a TRANSFER mentioned in No. 59	When the amount of the consideration for such conveyance as set forth therein does not exceed ...	Rs. 50	Eight annas.
	Exceeds Rs. 50 but does not exceed ...	100	One rupee.
See Exemptions, Schedule II, Nos. 5 and 13 (a), (b) and (e).	For every Rs. 100 or part thereof in excess of Rs. 100 up to ...	1,000	One rupee.
	and for every Rs. 500 or part thereof in excess of ...	1,000	Five rupees.

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
CO-PARTNERSHIP	(See Instrument No. 32)	
20. COPY, OR EXTRACT, certified to be a true copy, or extract, by or by order of any public officer and not chargeable under the Court-fees Act, 1870 ...	(*a.*) If the duty payable on the original according to the law in force at the time of its execution does not exceed eight annas ...	The same duty as is payable on the original.
	(*b.*) In any other case ...	Eight annas.
21. COUNTERPART OR DUPLICATE of any instrument chargeable with stamp-duty, and in respect of which the proper duty has been paid ...	(*a.*) If the duty payable on the original instrument under the law in force at the time of its execution is less than one rupee ...	The same duty as is payable on the original.
	(*b.*) In any other case ...	One rupee.
22. CUSTOMS-BOND		The same duty as a Security-Bond (No. 13).
23. DECLARATION OF ANY USE OR TRUST of or concerning any property when made by any writing not being a will		Fifteen rupees.
24. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling, or intended to entitle, any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees		One anna.
DISSOLUTION OF PARTNERSHIP ...	(See Instrument No. 33)	
DUPLICATE ...	(See Counterpart No. 21)	

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
25. ENROLMENT AS AN ADVOCATE OR VAKIL, under the powers conferred by letters patent, of any High Court		Five hundred rupees.
26. ENROLMENT AS AN ATTORNEY IN ANY HIGH COURT		Two hundred and fifty rupees.
27. INDEMNITY-BOND		The same duty as a Security-Bond (No. 13).
28. INSPECTORSHIP-DEED		The same duty as a Composition-deed (No. 18).
29. INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT OF A LOAN made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of movable property ...	(*a*.) When such loan is repayable more than three months, but not more than one year, from the date of such instrument	The same duty as a Bill of Exchange (No. 10 (*b*)) for the amount secured.
	(*b*.) When such loan is repayable not more than three months from the date of such instrument ...	Half the duty payable on a Bill of Exchange (No. 10 (*b*)) for the amount secured.
30. INSTRUMENT IMPOSING A FURTHER CHARGE ON MORTGAGED PROPERTY		The same duty as a Mortgage-deed (No. 43 (*a*) or (*b*) as the case may be).
31. INSTRUMENT OF APPRENTICESHIP including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, except articles of clerkship to Attornies		Five rupees.
See Exemption, Schedule II (No. 8 (c)).		
32. INSTRUMENT OF CO-PARTNERSHIP		Ten rupees.
33. INSTRUMENT OF DISSOLUTION OF PARTNERSHIP		Five rupees.

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
34. INSTRUMENT OF DIVORCE, including every document by which any person purports to effect the dissolution of his marriage		One rupee.
35. INSTRUMENT OF EXCHANGE of any property and not otherwise provided for		The same duty as a Conveyance (No. 19) for a consideration equal to the value of the property of greater value as expressed in such instrument.
36. INSTRUMENT OF GIFT (OTHER THAN A WILL)		The same duty as a Conveyance (No. 19) for a consideration equal to the value of the property as expressed in such instrument.
37. INSTRUMENT OF PARTITION		The same duty as a Bond (No. 12) for the amount of the value of the property divided as expressed in such instrument.
38. INSTRUMENT (OTHER THAN A WILL) PURPORTING TO CONFER AN AUTHORITY TO ADOPT		Ten rupees.
39. LEASE *See Exemption, Schedule II (No. 9).*	(*a.*) Where by such lease the rent is fixed and no premium is paid and such lease purports to be for a term— of less than one year ...	The same duty as a Bond (No. 12) for the whole amount payable or deliverable under such lease.
	of not less than one year, but not more than three years ...	The same duty as a Bond (No. 12) for the average annual rent reserved.
	exceeding three years ...	The same duty as a Conveyance (No. 19) for a consideration equal to the amount or value of the average annual rent reserved.

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
39. LEASE,—contd. *See Exemption, Schedule II (No. 9),*—contd.	(*b.*) Where by such lease the rent is fixed and no premium is paid or delivered and such lease does not purport to be for any definite term ...	The same duty as a Conveyance (No. 19) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
	(*c.*) Where the lease is granted for a fine or premium, and where no rent is reserved ...	The same duty as a Conveyance (No. 19) for a consideration equal to the amount or value of such fine or premium.
	(*d.*) Where the lease is granted for a fine or premium in addition to rent reserved ...	The same duty as a Conveyance (No. 19) for a consideration equal to the amount or value of such fine or premium, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered:
		Provided that when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
40. LETTER OF ALLOTMENT OF SHARES in any Company, or proposed Company, or in respect of any loan to be raised by any Company or proposed Company		One anna.
LETTER OF CREDIT	(See Bill of Exchange No. 10 (*a*))	
41. LETTER OF LICENSE, that is to say, every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion		Ten rupees.

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
42. MEMORANDUM OF ASSOCIATION OF A COMPANY	Fifteen rupees.
43. MORTGAGE-DEED not otherwise provided for *See Exemption, Schedule II, No.* 8 (*a*), (*b*); *also No.* 10 (*b*). (*a.*) When at the time of execution possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given ...	The same duty as a Conveyance (No. 19) for a consideration equal to the amount secured by such deed.
(*b.*) When at the time of execution possession is not given or agreed to be given as aforesaid ...	The same duty as a Bond (No. 12) for the amount secured by such deed.
44. NOTARIAL ACT, that is to say, any instrument, endorsement, note or entry made or signed by a Notary Public in the execution of the duties of his office or by a consul, attorney, judge, magistrate or other person acting as a Notary Public	One rupee.
45. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale of any goods, stock or marketable security on account of such principal	One anna.
46. NOTE OR MEMORANDUM or entry made in any book, or written on a separate paper, whereby any account, debt or demand, or any part of any account, debt or demand, therein specified and exceeding twenty rupees is acknowledged to have been balanced or to be due	One anna.

SCHEDULE I—*continued*.

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.	
47. NOTICE OF PROTEST BY THE MASTER OR OWNER OF A SHIP		Eight annas.	
48. PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION, or for the extension of the term of the exclusive privilege of making or using or selling such invention in India		One hundred rupees.	
		If drawn singly.	If drawn in duplicate, for each part.
49. POLICY OF INSURANCE ... *See Exemption, Schedule II (No. 10).*		Rs. A. P.	Rs. A. P.
	(*a*.) In the case of Sea-insurance—		
	When the amount insured does not exceed ... ... Rs. 1,000	0 4 0	0 2 0
	And for every further sum of Rs. 1,000 or part thereof in excess of 1,000	0 4 0	0 2 0
	(*b*.) In the case of any other insurance—		
	When the amount insured does not exceed 1,000	0 6 0	0 3 0
	And for every further sum of Rs. 1,000 or part thereof in excess of 1,000	0 6 0	0 3 0
50. POWER OF ATTORNEY, not being a PROXY chargeable under No. 51.	(*a*.) When executed for the sole purpose of procuring the presentation of one or more documents for registration in relation to a single transaction ...	Eight annas.	
	(*b*.) When authorising a person to act in a single transaction other than that mentioned in (*a*) ..	One rupee.	
	(*c*.) When authorizing a person to act in more than one transaction or generally ...	Five rupees.	

SCHEDULE I—*continued.*

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
PROMISSORY NOTE	(See Bill of Exchange (No. 10))	
PROTEST ...	(See Notarial Act (No. 44))	
51. PROXY empowering any person to vote at any one meeting of— (*a.*) Members of a Company whose stock or funds is or are divided into shares and transferable: (*b.*) Municipal Commissioners: (*c.*) Proprietors, Members or Contributors to the funds of any Institution	... ...	One anna.
52. RECEIPT FOR ANY AMOUNT OR VALUE EXCEEDING TWENTY RUPEES		One anna.
See Exemptions, Schedule II (No. 11).		
	Rs.	
53. RE-CONVEYANCE OF MORTGAGED PROPERTY in the possession of the mortgagee ...	(*a.*) If the consideration for which the property was mortgaged does not exceed ... 1,000	The same duty as a Conveyance (No. 19) for the amount of such consideration.
	(*b.*) In any other case ...	Ten rupees.
54. RELEASE, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property ...	(*a.*) If the amount of the claim does not exceed 1,000	The same duty as a Bond (No. 12) for such amount.
	(*b.*) In any other case ...	Five rupees.
RESPONDENTIA-BOND ...	(See Mortgage-deed No. 43)	
55. REVOCATION OF ANY USE OR TRUST of or concerning any property by any instrument (OTHER THAN A WILL)		Ten rupees.

SCHEDULE I—*concluded*

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
56. SETTLEMENT		The same duty as a Bond (No. 12) for a sum equal to the amount or value of the property settled as expressed in such settlement.
57. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel		One anna.
58. SURRENDER OF LEASE ...	(*a.*) When the duty payable on the lease does not exceed eight annas ...	The same duty as is payable on the lease.
See Exemption, Schedule II (No. 12).	(*b.*) In any other case ...	Five rupees.
59. TRANSFER ...	(*a.*) Of any share in a Company or Association ...	One-quarter of the duty payable on a Conveyance (No. 19).
See Exemption, Schedule II (No. 13, (c) and (d))	(*b.*) Of any interest secured by a Bond, Lease, Mortgage-deed or Policy of Insurance—	
	1. If the duty on such Bond, Lease, Mortgage-deed or Policy does not exceed Rs. 1,000 ...	The same duty as is payable on such Bond, Lease, Mortgage-deed or Policy of Insurance.
	2. In any other case ...	Five rupees.
	(*c.*) Of any property under the Administrator General's Act (II of 1874), section 31 ...	Ten rupees.
	(*d.*) Of any property belonging to any trust from one trustee to another trustee and without consideration	Five rupees.
60. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be		Four annas.

SCHEDULE II.

INSTRUMENTS EXEMPTED FROM STAMP-DUTY.

1. Advocate—enrolment of—in any High Court when he has previously been enrolled in another High Court.

2. Affidavit when made—
   (*a*) as a condition of enlistment under the Indian Articles of War;
   (*b*) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or
   (*c*) for the sole purpose of enabling any person to receive any pension or charitable allowance.

3. Agreement or memorandum of agreement—
   (*a*) for or relating to the sale of goods or merchandize exclusively, not being a note or memorandum chargeable under No. 45 of schedule I;
   (*b*) or contract for service in British Burma under the Chief Commissioner of that province entered into between natives of India emigrating to British Burma and the Superintendent of State Emigration or other Government officer acting as representative of the said Chief Commissioner;
   (*c*) made by raiyats for the cultivation of the poppy for Government;
   (*d*) made in the form of tenders to the Government of India for or relating to any loan;
   (*e*) made regarding the occupancy of land denoted by a survey number, and the payment of revenue therefor under Bombay Act I of 1865;
   (*f*) made under the European Vagrancy Act, 1874, section 17. No. 599, dated 23rd January 1874.

4. Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

5. Assignment of copyright by entry made under Act No. XX of 1847, section 5.

6. Bond when executed by—
   (*a*) the sureties of middlemen (lambardárs or khattadárs) taking advances for the cultivation of the poppy for Government; No. 503, dated 22nd January 1875.
   (*b*) headmen nominated under rules framed in accordance with Bengal Act III of 1876, section 99, for the due performance of their duties under that Act; No. 281, dated 14th June 1872.
   (*c*) any person for the purpose of guaranteeing that the local income derived from private subscriptions of a charitable dispensary or hospital shall not be less than a specified sum per mensem. No. 382, dated 16th January 1874.

7. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

8. Instruments—
   (*a*) executed by persons taking advances under the Land Improvement Act, XXVI of 1871, or by their sureties, as security for the repayment of such advances;
   (*b*) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money received by virtue thereof. No. 2280, dated 23rd July 1875, and No. 391, dated 12th May 1870.
   (*c*) of apprenticeship by which a person is apprenticed by or at the charge of any public charity.

9. Leases and Counterparts—
   (*a*) Leases of fisheries granted under the Burma Fisheries Act, VII of 1875;
   (*b*) Lease, pattá, kabúliyat or other undertaking to cultivate, occupy or pay rent for land granted to or by a cultivator without the payment or delivery of any fine or premium when a definite term is expressed and such term does not exceed one year, or when the annnal rent reserved does not exceed Rs. 100.
   (*c*) Counterpart of any lease granted to a cultivator.

10. Letters—

(*a*) of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

(*b*) of hypothecation accompanying a bill of exchange.

11. Receipt—

(*a*) endorsed on or contained in any instrument duly stamped, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured;

(*b*) for any gratuitous payment of money;

No. 1101, dated 13th February 1874

(*c*) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Madras and Bombay) of inám lands;

(*d*) for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army, when serving in such capacity;

(*e*) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity;

(*f*) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said armies, and serving in such capacity;

(*g*) given for money or securities for money deposited in any bank, or in the hands of any banker or person carrying on the business of banking to be accounted for:

Provided the same be not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:

Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

12. Surrender of lease executed by a cultivator when such lease is exempted from duty.

13. Transfers by endorsement—

(*a*) of a bill of exchange, cheque or promissory note;

(*b*) of a bill of lading;

(*c*) of a policy of insurance;

(*d*) of mortgages of rates and taxes authorized by any Municipal Act for the time being in force in the town of Bombay;

(*e*) of securities of the Government of India;

(*f*) of a warrant for goods (No. 60 of Schedule I).

General Exemption.

14. Any instrument executed by, or in favour of, Government in cases where, but for this exemption, the Government would be liable to pay the stamp-duty chargeable in respect of such instrument.

SCHEDULE III.

ACTS REPEALED.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847 ...	Copyright	In section five, the words "without being subject to any stamp or duty."
X of 1866 ...	The Indian Companies Act ...	In section eleven, the words "shall bear the same stamp as if it were a deed, and."
		In section sixteen, the words "they shall bear the same stamp as if they were contained in a deed."
XVIII of 1869 ...	The General Stamp Act ...	The whole.
XIX of 1873 ...	The North-Western Provinces Land-Revenue Act, 1873 ...	In section one hundred and eighty-three, the words "stamped or."
II of 1874 ...	The Administrator General's Act.	In section thirty-one, the words "bearing a stamp of ten rupees and."
IX of 1874 ...	The European Vagrancy Act	In section seventeen, the words "may be on unstamped paper and."
XV of 1876 ...	Bombay Municipal Debentures	In section two, the words "and no such indorsement shall be chargeable with any stamp-duty."

No. II.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

A

BILL

TO

Consolidate and amend the law relating to Stamps.

Mr. Cockerell.)

Govt. C. B. Press, Simla, No. 58 L. D.—6-9-78—2

LEGISLATIVE DEPARTMENT.

1. We, the undersigned Members of the Select Committee to which the Bill to consolidate and amend the law relating to Stamps and Court-fees was referred, have the honour to report that we have considered the Bill and the papers specified in the annexed list.

2. The Bill as originally introduced was intended to combine in one enactment the law relating to general stamps and that relating to Court-fees, which have been kept separate since the year 1867.

The circumstance that there were a certain number of provisions common to both laws seemed to make this arrangement to some extent a convenient one. But on examination the provisions thus common to both laws are found to be so few, that it seems to the majority of us that, even from the draftsman's point of view, the proposed consolidation would not be an improvement. It is moreover, the majority would observe, to be borne in mind that the members of the mercantile community and many other persons who have frequently in the course of their daily business to refer to the general stamp-law have scarcely ever any concern with the law of Court-fees, and that to such persons an Act treating of both subjects, together with constant transitions from one to the other, would be extremely confusing and awkward to use.

For these reasons we have deemed it best to adhere to the existing arrangement of the law, and confine the present Bill to the subject of general stamps, leaving the subject of Court-fees to be separately dealt with.

It may be added as a further reason in favour of this course that certain questions relating to Court-fees are not yet ripe for decision, and that it would in all probability lead to an undue delay in the amendment of the general stamp-law if we were to wait till we were in a position to make any definite recommendation regarding them.

3. The portion of the original draft embodied in the present Bill will be found to have been considerably altered both in substance and in form. Many of the amendments made have been suggested in the communications received by us from the various authorities consulted, or have been borrowed from the English Stamp-Acts of 1870. The rest (which are chiefly of a formal nature) have been adopted with a view to clearness or simplification.

We proceed to notice the more important of them.

4. The definitions of the following terms, namely:—

"Affidavit,"	"Letter of Credit,"
"Banker,"	"Negotiable Instrument,"
"Bottomry-Bond,"	"Promissory Note,"
"Respondentia-Bond,"	"Property,"
"Counterpart,"	"Protests,"
"Impressed,"	"Stamp,"
"Instrument,"	"Stamp-law,"

have been omitted; of these, "Bottomry-Bond" and "Respondentia-Bond" are covered by the definition of "Mortgage," and "Letter of Credit" by that of "Bill of Exchange." The rest have been omitted as superfluous.

5. The definitions of the following instruments, namely,—"Charter-party," "Composition-deed," "Delivery-order," "Warrant for goods" (described in the former Bill and in the existing law as "Dock-warrant") and "Notarial Act," have been transferred to the first schedule, as these instruments are not mentioned elsewhere.

6. The definition of "bill of lading" has been so drawn as to exclude receipts given for goods received by cargo boats for shipment within the limits of a port.

7. The definition of "bond" has been enlarged so as to include expressly the ordinary "khátá" or "tamassuk," and also instruments securing the repayment of a loan in kind.

8. The definitions of "Chief Controlling Revenue Authority" and "Collector" have been extended so as to include certain persons to whom the Government may delegate the functions of these authorities under the Act.

9. The term "Conveyance" has been expressly limited to transfers of property (whether movable or immovable) on sale, as it is in the English Stamp Act.

10. "Lease" has been made to include a "pattá;" also a kabúliyat where the latter instrument is not a counterpart of a lease, but is the only instrument passing between the parties.

11. The definition of "Mortgage-deed" has been enlarged, so as to include all instruments with the exception of a particular class of documents therein specified, pledging movable property. This change goes to maintain the existing law.

12. The term "Receipt" has for the purposes of the stamp-law been declared to include all acknowledgments of the discharge of a debt, whether by the payment of money, delivery of goods or otherwise, and all acknowledgments of the receipt of money, bills of exchange, promissory notes and cheques, whether in satisfaction of a debt or otherwise; but in connection with this extension of the term, the schedule of exemptions should be referred to.

13. "Settlement" has been re-defined, so as to exclude dispositions of property for religious or charitable purposes; such dispositions will accordingly be stamped as "Instruments of Gift," which are by the Bill made chargeable as "Conveyances."

14. We have in section 8, at the instance of the Government of India in the Financial Department, made the power to reduce or remit stamp-duties retrospective as well as prospective.

15. In section 11, which corresponds with section 42 of the former Bill, the obligation to cancel an adhesive stamp by writing the name or initials of the person affixing the same across it has been omitted, it being simply provided, in accordance with the existing law, that the stamp shall be cancelled in such manner as effectually to prevent its being used again. The obligation imposed by the Bill as introduced was, it appears to us, unsuited to the very large number of cases in which the person affixing the stamp would be unable to write.

16. The effect of the definition of the term "duly stamped" when applied to sections 12, 13, 14 and 15, is to invalidate all instruments in respect of which the rules laid down by these sections have been violated; but it will be seen, on reference to sections 35 and 36, that provision is made for validating such instruments on easy terms.

17. Section 7 of the former Bill in regard to the misapplication or wrong use of any particular description of stamps has been omitted as now unnecessary, its object being effected by the definition just referred to taken in conjunction with section 9.

18. In section 18, corresponding with section 9 of the former Bill, the period within which an instrument executed out of British India may be stamped has been extended from one to two months.

19. In section 19 we have, following the English Act, introduced a proviso protecting a person who in good faith takes a foreign bill bearing a proper stamp, though it may afterwards turn out that such stamp was not affixed in accordance with the law.

20. The provision as to the rate of exchange in respect of the Mauritius dollar in section 21 of the former Bill has been omitted from section 20, as it is understood that the rupee has been substituted for the dollar currency in that place.

21. Sections 25 and 26 (corresponding to section 34 (*b*) and section 12 of Act XVIII of 1869) and section 29 (which is altogether new) have been framed on the lines of the sections of the English Act relating to valuations for duty.

Section 28, which is a generalization of section 34 (*a*) of Act XVIII of 1869, is similarly taken from the English law.

22. The provisions of chapter 3 (relating to adjudication) have been made expressly applicable to instruments or drafts of instruments brought to the adjudicating officer prior to their execution. It has been a question under the present law whether any person could, before executing an instrument, claim an adjudication as to the amount of duty to which such instrument would be liable, and we think it desirable to enable him to do so.

23. The provision in this chapter empowering the Collector to require an abstract to be furnished to him is taken from the English Act. It is obviously useful as saving the Collector's time when the document is a lengthy one.

24. The obligation to examine all instruments coming before them in the execution of their duty, and the power of impounding such as appear to be not duly stamped, have been extended, by section 34, to all persons having by law or consent of parties authority to receive evidence, in which category are included not only all judicial officers, but persons acting as arbitrators, special commissioners and the like, and to all executive officers having charge of any office, except police-officers. Under one or other of these heads, it is thought, all persons having any public duty to discharge, and whose position and standing are such as to justify their being invested with such powers, will be found to be included. It would for obvious reasons be inexpedient to assign such functions to police-officers. Power has been given to the local Governments to declare who for the purposes of this chapter (IV) shall be deemed to "have charge of an office."

25. The penalty leviable by a Civil Court before admitting in evidence an instrument not duly stamped has, by section 35, been increased from four to ten times the deficient amount of duty, and it is provided further that in no case shall the fine levied be less than five

rupees; but the Collector is, by section 37, empowered to remit any portion of the amount so levied in excess of the minimum fine of five rupees.

26. By section 38, the Collector is authorized to levy a fine, the amount of which is in no case to be less than five rupees, and which may extend to the amount leviable in the Civil Courts under section 35. The provision of the former Bill in regard to the levy of interest on the unpaid amount of any duty chargeable has been omitted, as likely to cause trouble and inconvenience wholly disproportionate to the advantage to be gained by its retention.

27. The power given to the Collector under the former Bill of prosecuting before a Magistrate any person who might appear to have committed a criminal offence in regard to the stamping of any instrument, irrespective of the levy of deficient duty or penalty in respect of such instrument, has been retained, but subject to the condition that no such prosecution shall be instituted unless the deficient duty and penalty are not paid, or it appears to the Collector that the neglect or omission to use the proper stamp proceeded from an intention to evade payment of the duty.

28. The provision of the former Bill enabling a Collector to recover any deficient amount of stamp-duty or any penalty payable under this chapter as an arrear of revenue, has been omitted.

When the person from whose custody the instrument has come has not been concerned in the execution of it, it seem to us that it would, generally speaking, be unfair to *compel* him to pay, and when he has been so concerned, the proper course clearly is to prosecute him for the offence he has committed.

29. The third proviso to section 35 is intended to settle an important question, regarding which there is at present a conflict of opinion, namely, the question as to whether an objection for want of stamp can be allowed in appeal when the document has been received in evidence in the Court below. We think it should not be allowed. The advantage gained to the revenue by allowing it seems to us to be more than counterbalanced by the delay and expense which must frequently be caused to suitors when a document forming the basis of the decision in the Court below is rejected on a purely technical ground in appeal. It might, no doubt, be provided that, on the defect being brought to notice in appeal, the party relying on the document might remedy it by paying in the deficient stamp-duty and penalty in the Appellate Court; but there would frequently be cases in which, being the respondent, he would not be present, or in which, if present, he would not have the money at hand at the moment, or in which again he would find it more to his interest to substitute other evidence for that objected to; and in such cases the result would usually be a postponment or remand. For these reasons we have deemed it best to provide that a document once admitted shall not afterwards be objected to; but for the protection of the revenue, we have in section 51 given power to the Appellate Court, either of its own motion or on the application of the Collector, to take the question of the stamp-duty into consideration; and if it declares that a higher duty or penalty was payable than was actually paid and the deficiency is not then paid, or it appears that there was an intention to evade the stamp-law, the Collector may, notwithstanding the admission of the document in evidence, prosecute for any offence that may have been committed.

We consider such a power necessary, not only in cases in which a lower Court has pronounced an erroneous decision on a question of liability to stamp-duty, but still more in the much larger class of cases in which it has overlooked the point altogether.

30. The provisions of section 50, corresponding with section 47 of the former Bill, have been so modified as to confine the references to such Courts as are presided over by not less than three Judges.

31. The provisions allowing a refund in the case of spoiled adhesive stamps and of instruments void for want of registration have been omitted. It would be almost impossible to devise adequate protection against frauds on the revenue if refunds were granted in the case of spoiled adhesive stamps; and it seems inexpedient to provide for the mitigation of any of the consequences attaching to neglect of the registration law.

32. In modification of the absolute prohibition of the sale of stamps by any person other than a licensed vendor contained in the former Bill, it is now provided (by implication in section 66) that a person who has in good faith purchased a stamp for his own use may, in the event of his not requiring the same, resell it. This change renders unnecessary the retention of the provision of section 80 of the former Bill for the recovery in the way of a refund of the value of a stamp purchased by any person for his own use which he does not require.

33. We have, in the case of a spoilt stamped paper on which no instrument has been executed, made the period within which an application must be made for a refund run from the date of the purchase of such stamp from the stamp-vendor instead of from the time at which it is spoilt. By so doing we get rid of an issue of fact on which much false evidence would be likely to be adduced.

34. In section 57, the obligation of giving a receipt has been confined to cases in which the money paid, or the value of the property delivered, exceeds 20 rupees.

35. A provision equivalent to that of section 51 of the General Stamp Act, 1869, has been introduced in section 58 with the object of giving the utmost possible publicity to the requirements of the stamp-law.

36. The maximum limit of fine for the offence of under-stamping has been raised (section 57) from 200 rupees to 500 rupees; but on the other hand it has been provided when any person from whom any penalty has been recovered under chapter IV is prosecuted and convicted in a Criminal Court, the amount of the penalty so paid is to be allowed as a set-off against, and to be deducted from, the amount of any fine which he may be sentenced to pay under this chapter.

37. In lieu of the provision of the former Bill rendering the parties to an instrument in which the full consideration passing under such instrument is not truly set forth in all cases liable to a fine of five times the amount of the proper duty which would have been payable if the consideration were truly stated, together with a further fine which might amount to 500 rupees, the liability of such persons has been restricted (section 61) to cases in which there appears to have been a fraudulent intention; and a single fine without any minimum limit, but with a maximum limit of 5,000 rupees (the limit fixed in section 35 of the present Act for the similar offence when committed by a person employed professionally in the preparation of the instrument) has been provided. The minimum limit of fine fixed by section 35 of the present Act has likewise been abolished, and all parties concerned in the wilful suppression or misrepresentation as regards the amount of the consideration given for, or the value of, the property to which the instrument relates, whether they are the executants of, or the persons employed in drawing up, such instrument, are made punishable in like degree. The effect of these alterations is to simplify, and probably on the whole to mitigate, the existing law.

38. By section 69 we have made an offence committed in respect of any instrument triable in any place in which such instrument may be found, as well as in any place in which it would be triable under the Criminal Procedure Code.

39. We now proceed to notice the changes we have made in the schedules. To begin with, we have thrown the schedule of *ad valorem* duties and that of fixed duties into a single schedule arranged in alphabetical order, which we think will be found simpler and easier for reference. We have further made changes both of substance and of form in several of the articles. The Bill as introduced provided for an increase of about 50 per cent. in the duty on bills of exchange and promissory notes payable otherwise than on demand; but it has seemed to the majority of us that, except under circumstances of considerable financial pressure, we should not be warranted in imposing this additional tax upon the commerce of the country, especially at a season of comparative depression like the present. We have accordingly amended the Bill so as to keep the duties on these instruments at their present rates.

40. In connection with the subject of bills of exchange, we may further mention that we have deemed it unnecessary to make any change in the existing law by which the duty payable on bills drawn in sets is distributed over the several parts. We have accordingly omitted the foot-note to the first schedule of the Bill as introduced, and inserted a table like that contained in the existing Act.

41. We have in article 29 expanded article 3 of the first schedule to the Bill as introduced, first by extending it to hypothecations of movable property, and secondly by extending it (with duty equal to that on bills of exchange) to cases when the loan is repayable more than three months, but not more than one year, from the date of the instrument. This, we believe, will afford considerable relief in a very large class of mercantile transactions which would otherwise be chargeable with the mortgage-duty.

42. Policies of insurance have been divided into two classes—(1) marine policies, and (2) all other policies, including life policies. For the first, it is proposed to maintain the rates prescribed by the existing law. In the present days of quick communications marine policies have a very short currency, in most cases not exceeding three months, and the number of policies of this class issued is much greater than formerly. There is consequently, in the opinion of the Committee, no good ground for reverting, as the original Bill would have done, to the higher rates of duty which were charged previous to 1869. As regards life and other kinds of insurances, the case is different, and some increase seems permissible. The rates we propose for them are medium rates, 25 per cent. below the rates laid down in the former Bill, and 50 per cent. in excess of the rates charged on policies of insurance generally under the existing law.

43. The Bill as introduced omitted the minimum rate of two annas to which bonds and other instruments chargeable as bonds involving an amount not exceeding 25 rupees are subject under the present Stamp Act. The effect was to make every bond and other instrument

similarly chargeable involving an amount, however small, liable to a duty of four annas. As a compromise between this rate, which in the case of very small transactions would in our opinion be unduly heavy, and the rates prescribed by the existing law, we propose that the two annas rate be continued in respect of bonds and other instruments chargeable at bond-rates where the amount secured by such instrument does not exceed ten rupees.

44. We have provided that the duty on amounts above Rs. 1,000, both in the case of the "Bond" class, and the "Conveyance" class of instruments, shall ascend by steps of Rs. 2-8 and Rs. 5 in lieu of Rs. 5 and Rs. 10, respectively, as provided by the former Bill. The effect of this reduction is to maintain the existing rates of duty on amounts ranging between Rs. 1,000 and Rs. 10,000 in respect of Bonds and Conveyances, and the several instruments similarly chargeable.

45. We have in article 20 inserted words to make it clear that only copies certified by a public officer are chargeable with duty.

46. As important additions to the schedule we desire to mention—

Bought and sold notes (No. 45), and

Enrolment of a vakíl under the letters patent of a High Court, (No. 25),

and among omissions we would direct attention to article 52, by which the duty it was proposed to take on receipts between 10 rupees and 20 rupees has been abandoned.

47. The duty payable on articles of clerkship (No. 8) we propose to reduce from 500 rupees, the amount chargeable under the existing law and under the Bill as introduced, because a new duty of 250 rupees is imposed (by article 26) on enrolment as an Attorney.

48. The entries in the exemption schedule are for the most part transferred from existing enactments or from notifications issued by the Government under the powers conferred by the present Stamp Act; but among those now added we may mention—

(1.) Receipts for payments of money exceeding 20 rupees, when such payment is made without consideration, as *e. g.*, in the case of a subscription to some religious, charitable or public object;

(2.) "Lease, pattá, kabúliyat or other undertaking to cultivate, occupy or pay rent for land granted to or by a cultivator without the payment or delivery of any fine or premium when a definite term is expressed and such term does not exceed one year or when the annual rent reserved does not exceed Rs. 100.

(3.) "Counterpart of any lease granted to a cultivator."

49. We think that such instruments as "Articles of Association," which deal with important interests, may reasonably bear a somewhat higher duty than that to which they have heretofore been subjected; we propose therefore that the amount be raised from fifteen to twenty-five rupees.

50. We desire to acknowledge the valuable criticisms received from the Chambers of Commerce at Madras and Bombay, from Mr. Justice Sewell White and Mr. Justice Plowden, from Mr. C. D. Field, District Judge of Burdwan, from Mr. Jacob, Registrar of the Judicial Commissioner's Court, Central Provinces, from the Committee appointed by the Panjáb Government, and from Bábu Upendra Náth Mittra, Government Pleader, Dacca.

51. The publication ordered by the Council has been made; but the Bill has been so considerably altered by us that we are of opinion that it should be republished.

The 28th August, 1878.

F. R. COCKERELL

WHITLEY STOKES.‡

B. W. COLVIN.

JOTÍNDRA MOHAN TAGORE.*

FAIZ ALÍ KHAN.

T. H. THORNTON.

G. H. P. EVANS.†

E. C. MORGAN.

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* With all deference to the opinion of the other Members of the Select Committee, I beg to observe that I fail to see the reason why settlements made for religious and charitable purposes should not come under the same head as family settlements. Considering the

laudable objects for which the former are intended, they ought not, in my opinion, to be charged with a higher rate of stamp-duty than the latter.

With regard to article 50, clause (*c*), Schedule I (Power of Attorney), though in its present form it meets my objection respecting joint execution, I still take exception to it for this reason: when I took objection to this clause I did not mean that different attorneys for different objects should be constituted by one instrument. What I meant to say was that provision should be made to enable a person or persons to execute a power in favour of one *or more persons* to "act in more than one transaction or generally," such power to act being exercised simultaneously or concurrently by the persons named in the instrument. I have already stated my reasons for this proposed modification in my former note, and I need not repeat them here.

With these remarks I subscribe the report.

The 28th August, 1878. JOTINDRA MOHAN TAGORE.

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† I AGREE with this report except as to article 46 of Schedule I, which I think must be further altered or struck out altogether.

G. H. P. EVANS.

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‡ On consideration, I agree with Mr. Evans. The clause as it stands would apply to the statement of the balance in a banker's pass-book not signed by the constituent.

WHITLEY STOKES.

List of Papers.

Letter from Secretary to the Government of India, Financial Department, No. 3655, dated 30th September, 1875.

Despatch from Secretary of State, No. 36, dated 7th September, 1876.

Letter from Bábu Sri Kumar Sircar, dated 26th October, 1877.

Despatch from Secretary of State, No. 63, dated 8th November, 1877.

Letter from Secretary, Calcutta Trades Association, dated 8th December, 1877.

" " Ganesh Wassoodeo Joshi, Secretary, Poona Arbitration Court, dated 18th December, 1877, and enclosure.

Letter from W. M. Coghlan, Esq., District Judge, Tanna, to Honorary Secretary, Poona, Arbitration Court, dated 21st December, 1877.

Letter from Chairman, Madras Chamber of Commerce, to Hon'ble Whitley Stokes, C.S.I., dated 20th December, 1877.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 262A., dated 24th December, 1877, and enclosures.

Proceedings of the Government of the North-Western Provinces in the Judicial (Civil) Department for August, 1876, Nos. 1 to 15.

Letter from Personal Assistant to the Chief Commissioner, Oudh, to Secretary to Government of India, Home Department, No. 484, dated 10th February, 1877, and enclosures.

Endorsement by the Financial Department, forwarding copy of a letter from Additional Secretary to Government of India, Financial Department, to Secretary, Calcutta Trades Association, No. 2824, dated 22nd December, 1877.

Remarks by the Hon'ble Mr. Justice J. Sewell White, dated 3rd January, 1878.

Memorial from Arbitration Court, Ratnágiri, dated 24th December, 1877.

Ditto	ditto	Kheda,	dated 25th December,	1877.
Ditto	ditto	Tisgaon,	dated 26th December,	1877.
Ditto	ditto	Júnar,	ditto	ditto.
Ditto	ditto	Kaládgi,	ditto	ditto.
Ditto	ditto	Guhágar,	dated 27th December,	1877.
Ditto	ditto	Supe,	ditto	ditto.

Letter from Under Secretary to Government, Bombay, No. 7432, dated 10th December, 1877, and enclosures.

Letter from Under Secretary to Government, Bombay, No. 7688, dated December, 1877, and enclosures.

Endorsement by the Financial Department, No. 151, dated 8th January, 1878, transferring a letter from Secretary to Government of Bengal, No. 3347, dated 19th December, 1877, and enclosures.

Memorial from Arbitration Court, Tembhurni, dated 25th December, 1877.

Ditto ditto Indápore, dated 26th December, 1877.

Letter from Secretary, Rajsháhái Association, No. 30, dated 15th January, 1878, and enclosure.

Circular letter to Local Governments and Administrations (Nos. 83—91, dated 16th January, 1878).

Letter from Registrar, High Court, Calcutta, Original Side, dated 19th January, 1878, and enclosure.

Letter from Bábu Upendra Náth Mittra, Government Pleader, Dacca, dated 19th January, 1878.

Letter from Officiating Secretary to Chief Commissioner, Mysore, No. 9060—10J., dated 19th January, 1878, and enclosure.

Letter from Under Secretary to Government, Bombay, No. 509, dated 24th January, 1878, and enclosure.

Letter from J. Edalji, Esq., Bombay, dated 21st January, 1878.

" " Bábu S. K. Dutt, Narsinghpur, Central Provinces, dated 25th January, 1878.

Endorsement by the Financial Department, forwarding copies of—

Notification by Financial Department, No. 3348, dated 25th January, 1878.

" " " No. 462, dated 9th September, 1870.

Letter from Officiating Secretary to Chief Commissioner, Central Provinces, No. 256-14, dated 21st January, 1878, and enclosures.

Letter from Registrar, High Court, Bombay, to Hon'ble Whitley Stokes, C.S.I., No. 1514, dated 1st December, 1877, and enclosures.

Letter from Secretary to Government of Bengal, No. 235, dated 24th January, 1878, and enclosures.

Letter from Secretary to Government of Bengal, No. 309, dated 30th January, 1878, and enclosures.

Letter from First Judge, Calcutta Court of Small Causes, No. 30, dated 23rd January, 1878.

Endorsement by the Government of Bengal, No. 341, dated 2nd February, 1878, forwarding copy of Note by Collector of Durbhunga, dated 28th January, 1878.

Memorial of the British Indian Association, dated 2nd February, 1878.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 41A., dated 4th February, 1878.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 47A., dated 6th February, 1878, and enclosure.

Memorial from Arbitration Court, Násik, Bombay, dated 24th December, 1877.

Letter from Officiating Secretary to Chief Commissioner, Central Provinces, No. 541—14, dated 11th February, 1878.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 57A., dated 14th February, 1878, and enclosure.

Letter from Joint Magistrate and Deputy Collector, Twenty-four Parganas, to Hon'ble Whitley Stokes, C.S.I., dated 21st February, 1878.

Letter from Secretary to Chief Commissioner, Assam, No. 263, dated 18th February, 1878, and enclosures.

Letter from Secretary to Government of Bengal, No. 525, dated 26th February, 1878.

Letter from Under Secretary to Government, Bombay, No. 1264, dated 26th February, 1878, and enclosure.

Letter from Officiating Secretary to Chief Commissioner, Mysore, No. 10260—14J., dated 22nd February, 1878, and enclosures.

Letter from Under Secretary to Government, Bombay, No. 1171, dated 21st February, 1878, and enclosure.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 68A., dated 28th February, 1878, and enclosures.

Letter from Joint Magistrate and Deputy Collector, Twenty-four Parganás, to Hon'ble Whitley Stokes, C.S.I., dated 26th February, 1878.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 80A., dated 5th March, 1878.

Letter from Officiating Secretary to Government, Panjáb, No. 927, dated 5th March, 1878, and enclosures.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 49—50A., dated 9th February, 1878, and enclosures.

Ditto ditto ditto No. 87A., dated 11th March, 1878, and enclosures.

Letter from Acting Under Secretary to Government of Bombay, No. 2051, dated 30th March, 1878, and enclosures.

Ditto ditto ditto No. 2471, dated 20th April, 1878, and enclosures.

Letter from Chief Secretary to Government, Madras, No. 675, dated 30th March, 1878, and enclosures.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 126A., dated 19th April, 1878, and enclosure.

Letter from Acting Under Secretary to Government, Bombay, No. 2969, dated 16th May, 1878, and enclosure.

Letter from Officiating Secretary to Government, Panjáb, No. 2020, dated 11th May, 1878, and enclosure.

Extract from a letter from Judge, Small Cause Court, Agra, dated 27th May, 1878.

Letter from Officiating Chief Commissioner, Ajmer and Mairwára, No. 350, dated 30th May, 1878, and enclosures.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 215A., dated 21st June, 1878.

Office Memorandum from Financial Department, No. 2353, dated 14th August, 1878.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Preliminary Report of the Select Committee on the Bill to consolidate and amend the law relating to Stamps and Court-fees.

Govt. C. B. Press, Simla,—No. 142 L. D.—5-9-78—200.

1878

124

From

To The Judicial Comptr. ×
The Director of Stamps ⊙
Supt of Stamps ⊙

Dated Bangalore 21st Sept 1878

Despatched " "

Received

Section S.R. Copies
File No 1-78
Serial No 1-78

× 1 Letter
1 Bill
1 Report

S.R. 5 & 77
Sec 2

× 3 to Jud. Comr.
⊙ 3 to Supt.

Enclosures No.

General No. 4805 - 4806
Y No. 724 - 725

Letter No 1207 Dated 9th Sept 1878
from the Govt of India, Legis-
lative Dept forwarding for
Opinion Copies of the Stamp
Bill in its second stage, to-
gether with the preliminary
Report of the Select Committee

Forward Copy of the above
Letter, together with Copy of the
Bill and Report referred to,
and request to be furnished
with the Opinion of the
Judicial Comptr on the points
for Accountant
referred to in para 2 of the
first letter.

21/9/78

Secretary

11

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1878.79. 190

From The Jud. Commissioner of Mysore

To Secretary to Chief Commissioner, General Department.

Dated 2nd Oct 1878

Despatched 4 " "

Received 5 " "

Enclosures No.

General No. 2245 / No. 209 1878—79.

Referring to 2nd para of the letter from the Govt of India received with this endorsement No. 4805-924 & 2950 dated 18th Sept 1878 forwarding a memorandum containing remarks on certain provisions of the Stamp Bill.

I forward a copy of the Memo referred to & request that the Govt of India may be moved to address the Govt of Mysore on the proposed Bill in this matter.

Sd/ [illegible]

10.78

Section

File No

Serial No

S.R
5 877
S 3

No. 2246
209

Mysore Jud. Commr's. Office
Bangalore 2d Octr. 1878

From,

J. D. Sandford, Esqre
Judicial Commissioner
of Mysore

To,

The Secretary to the
Chief Commissioner
of Mysore

Sir,

With reference to the second para of the letter from the Government of India received with your docket No. 4805-724 of 21st September 1878, forwarding, for the expression of my opinion, copy of the Stamp Bill, I have the honor to enclose herewith a Memorandum containing a few remarks on certain provisions of the bill.

I have the honor to be
Sir
Your most Obedt. Servant

J Sandford
Judicial Commissioner

J P

Remarks of the Judicial Commissioner of Singapore on the Stamp Bill.

Section 3, Clause 15. The definition of "Receipt" appears so wide as to include entries to the credit of a constituent in a Bank Pass book.

Section 37 This seems rather a large discretion to be left with the Collector, - especially when no instruction is given to him as to the considerations which should guide him in refunding or refusing to refund, and no means is provided of correcting an erroneous order for Refund.

Section 46 Ought not Section 31 to be added so that the words would read "acting under sections thirty one or thirty eight"?

Section 51 The following may perhaps be added to this section, before the words "take such order into consideration", "or on the application of any party to the proceeding in which the instrument has been admitted in evidence"

The instrument will be sometimes in the possession of the Court, where it has been admitted as evidence The superior Court should have the power of calling for it from

from such Court

W. D. Murphy
Judicial Commissioner

J.P.

187 S. 0.3119.
102

From

The Secy to the Govt of India
Legislative Dept

To

Dated Simla, 7 October, 1876.

Despatched

Received 15

Enclosures No.

General No.

No. 1294.

Section

File No

Serial No

S.R.
5 of 77

Invites attention to his letter No 1162, dated the 24 August last, requesting title-deeds of Jodhpur lands & requests the favor of an early reply

Submitted for Secy's orders

File.

No. 1294

From

D. Fitzpatrick Esquire,
Secretary to the Govt. of India,
Legislative Department.

To

The Chief Commissioner of
Mysore.

Simla, the 7th October 1878.

Sir,

I am directed to invite your attention to my letter No. 1162, dated the 24th August last, regarding the title-deeds of Jodi-inam lands, and to request the favour of an early reply.

I have the honour to be,
Sir,
Your obedient servant.

D. Fitzpatrick

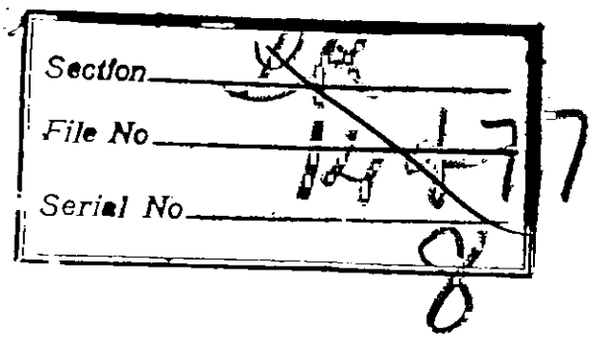
Secretary to the Govt. of India.

C.F.

1878

W 90/2.

To the Secy. to the Govt. of India
Legislative Dept.
Simla



S.R.
5 of 77
5

Dated - 10th October
Rec'd 10/10/78 - F. Genl. No. 5245
Encls: Copy of
memo attached to
Govt Court's No. 2245
of 2-10-78 f 209

9 " 9

Submits the accompanying copy of a memo by the Jud. Commr. containing his remarks on certain provisions of the Stamp Bill, and states that the report of the Supt of Stamps will be forwarded when received.

General No. 5245

J. 9

H. C. C. Office

Bangalore 10th Oct. 1878

To The Secy to the Govt of India

Legislative Dept

Sir,

In reply to your letter No. 1207 of the 4th instant, forwarding for opinion thereon copies of the Attempt. Bill in its second stage, together with copies of the preliminary Report of the Select Committee, I am directed to transmit the accompanying Copy of a Memorandum by the Judicial Comptr. Containing his Remarks on certain provisions of the Bill, and to state that the Report of the Govt of Mysore when opinion has also been called for, will be forwarded when received.

2. I am desired to add, that the Chief Comptr has no observations to offer on the provisions of the Bill in its present stage.

I have &c.

9/10/1878

Secretary

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MYSORE CHIEF COMMISSIONER'S OFFICE,

Bangalore, 18th October 1878.

No. 5594 / G 845

S.R. 5977 916

Section
File No. 1207
Serial No.

To The Dy. Accte Genl & Supt of Stamps.

*Subject.

Forwarding, for opinion, copy of the Stamp Bill (with copy of letter, No 1207, dt. 9 Sept 1878) from the Govt of India, Legislative Dept, in its 2d stage.

Sir,

I am directed to invite attention to the communication *marginally noted, and to request an early reply thereto.

No. 4806 / 725 dated 21-9-78.

Subsequent reminder No. dated

I have the honor to be

Sir,

Your most obedient Servant,

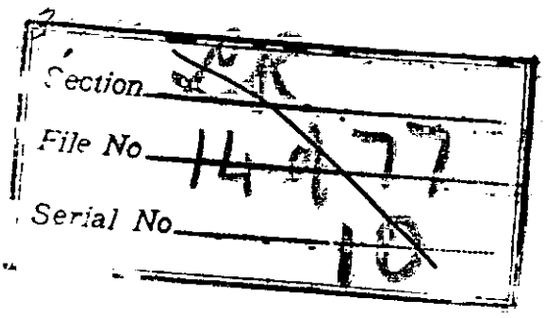
Secretary.

by a survey no is also exempt under clause (e) of article 3.

30/10/78

Perhaps a brief Memo Embodying para 3 of Dy. Clr's of 14/10/78 regarding Exemptions — and para 5 of Mun Clr's Endt Dated 23/10/78 may be made herein for Govt's Orders

30/10



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From

The Deputy Accts. General in Mysore.

To

The Offg. Secretary to the Chief Commr.,
General Department.

Dated 23rd October 1878

Despatched 24th "

Received 24 "

Enclosures No.

General No. 3818
No.

Submitting his opinion regarding the Stamp Bill with certain Observations

To Secretary Duplicate of opinion to page 5 of Mun Clr's

The objection of the Dy Accts is met by article 3, clause (e) Schedule II of the proposed Enactment also by article 14 of the same Schedule — What is now granted to a ryot for his land is a Receipt Book (Vide Form No 4 printed at page 54 of the Rev Manual) The Survey forms have been introduced into the settled as well as unsettled Talukhs of the Province so that no such document as was formerly known as Puttah is now granted — What is now given is merely a Receipt Book which is exempt from Stamp duty under Schedule 14 Schedule II. The agreement made regarding the occupancy of land

denoted

and in what manner the Stamp duty should be computed. The proposed draft Bill does not appear however to have supplied this want. The instruments referred to do not appear to come under the definitions of a lease as given in Article 39 of Schedule I nor indeed under any other class of document specified in the Bill.

3 The objections noted in para 4 of my report, as to "Instruments of gift" are met by section 27 of the new bill.

4 So also the objection taken in my para 6 to the provision proposed in the original draft bill, to levy interest at 5 per cent per annum on the amount of duty leviable on unstamped or insufficiently stamped instruments, has been met by the provisions of section 35 of the new Bill.

5 I observe that the exemption clause 9 Schedule II of the new bill does not provide, like the Act of 1869 (section 15 clause 9), an exemption generally for all leases or pattahs granted without fine or premium to Ryots or Cultivators of land. The exemption is limited to those only which are for a definite term "not exceeding one year", or "when the annual rent reserved does not exceed Rs 100". In Mysore a vast majority of ryoti pattahs are understood

to

From

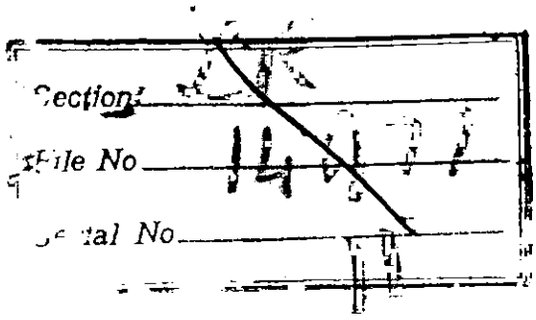
To The Director Genl
and the Superintendent of
Stamps. Mysore.

Dated 6th
Despatched "
Received "

November 1887.

Enclosures No. —

General No. 6157
7 No. 132



SR
5977
S18

His letter No 3813 of
the 23rd ultimo submitting
his opinion regarding the
new Stamp Bill.

" —

Adverting to para 5 of
the above, observes that
the objections therein
raised is met by article
3 clause (c) and article 14 of
Schedule II of
the proposed Enactment.
The Survey forms
of Accounts have been
introduced into the

to be under Rs 100 a year of rental, these would be exempt, but pattahs of larger annual value would be liable to Stamp duty in as much as the Mysore Pattahs are not given for a definite term but continue in force so long as the ryot pays the rent. Under section 30 clause (c) new bill) the ryot as the "lessee" is bound to bear the duty unless there be an agreement to the contrary; and under article 39 clause (b) the duty should be computed on 10 years rental. The question mooted is one of considerable importance as affecting ancient usage in Mysore.

6— The only other point to which I would refer is that contained in section 47 i.e. to whom should the "Chief Controlling Revenue authority" in Mysore refer cases of doubt. In the provinces of "British India" the Bill provides for a reference to a High Court, and requires that every such case shall be decided by not less than three Judges. An executive order of the Government of India seems necessary, regards Mysore.

I have the honor to be,
Sir,
Your most Obedient Servant

Deputy Accountant General &
Superintendent of Stamps

settled as well as unsettled.

Pattahs ~~of the Province~~ no such document as ~~was formerly known as~~ Pattah is now granted. ~~What is now given to Ryots~~ but ~~is merely~~ a Receipt-book which is exempt from Stamp duty under c. Article 14 Schedule II.

2. The agreement executed as to the occupancy of land demoted by a Survey No. is also exempt from duty under Clause (e) Article 3.

By order

Secretary